



# **PROPOSED RULE MAKING (RCW 34.05.320)**

**CR-102 (7/22/01)  
Do NOT use for expedited  
rule making**

Agency: Department of Labor and Industries

- ☒ Preproposal Statement of Inquiry was filed as WSR 02-13-116; or  
☐ Expedited Rule Making -- Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice  
to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

(a) Title of rule:

Chapter 296-809 WAC, Confined Spaces  
Chapter 296-62 WAC, Part M, Confined Spaces

Purpose: The Confined Spaces rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We propose to rewrite and reorganize the rule for clarity, while eliminating unnecessary requirements, and outdated terminology.

(b) Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Statute being implemented: Chapter 49.17 RCW

(c) Summary: The Department of Labor and Industries is proposing to rewrite and clarify requirements relating to Confined Spaces. This rulemaking is part of our plan to rewrite all the safety and health rules for clarity. See attachment a.

Reasons supporting proposal: The Department of Labor and Industries is proposing to rewrite and clarify requirements relating to Confined Spaces. This rulemaking is part of our plan to rewrite all the safety and health rules for clarity. See attachment a

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting.....Tracy Spencer	Tumwater	360-902-5530
2. Implementation.... Michael A. Silverstein	Tumwater	360-902-5495
3. Enforcement..... Michael A. Silverstein	Tumwater	360-902-5495

(e) Name of proponent (person or organization):  
Department of Labor and Industries

☐ Private  
☐ Public  
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:

(g) Is rule necessary because of:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

(h) HEARING LOCATION:  
Department of Labor and Industries Building  
7273 Linderson Way SW, Auditorium  
Tumwater, WA 98501

Date: November 5, 2003 Time: 1:00 p.m.

Assistance for persons with disabilities: Contact  
Sally Elliott by October 20, 2003

At (360) 902-5484

NAME (TYPE OR PRINT)

**Paul Trause**

SIGNATURE

TITLE

**Director**

DATE

**September 16, 2003**

Submit written comments to:  
Carol Stevenson, Project Manager  
WISHA Services Division  
PO Box 44635  
Olympia, WA 98504-4635  
Email: stei235@lni.wa.gov  
FAX: (360)902-5529 By: November 12, 2003

DATE OF INTENDED ADOPTION: January 1, 2004

**CODE REVISER USE ONLY**

**WSR # 03-19-106**

(COMPLETE REVERSE SIDE)

(j) Short explanation of rule, its purpose, and anticipated effects:

The Confined Spaces rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We propose to rewrite and reorganize the rule for clarity, while eliminating unnecessary requirements, and outdated terminology.

Does proposal change existing rules? ☐ YES ☒ NO

If yes, describe changes:

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes.

☒ No. Explain why no statement was prepared

A number of criteria and exemptions were established by the SBEIS analysis. One key criteria that allows rule changes to be exempt from preparation of an SBEIS is presented in RCW 34.05.310(4)(d): “rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect” are not subject to the SBEIS requirements. Because the proposed rule changes make clarifying and organizational changes for ease of understanding and use, but do not in any way alter the content of the original rules, there should not be an economical impact on Washington State business.

The analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make WISHA rules easier for employers and employees to understand and use, and thus actually save them time.

(l) Does RCW 34.05.328 apply to this rule adoption? ☒ Yes ☐ No

Please explain: This rule is exempt under RCW 34.05.328(5)(b)(iv) since it only corrects typographical errors and clarifies language without changing its effect. The proposal does not increase requirements.